

Minutes of the May 18, 2012 Regular Council Meeting

Call to Order and Flag Salute at 3:30 pm by Vice-Mayor Smallwood.

Council in Attendance: Bunting, Langan, Weistling, Carmean, Tingle and Smallwood

Absent: Serio

President's Report - None

Approval of Minutes:

Motion to Approve the Minutes of April 27, 2012 Meeting - Council Member Carmean

Second - Council Member Langan

DISCUSSION – Council member Weistling asked that minutes on page 3 be changes as follows:

Council Member Weistling added that ~~they might consider putting some of the lights~~ **some may be adjusted because they are** on timers.

Motion to approve the minutes as amended – Council Member Carmean

Second – Council Member Langan

Vote: All in favor to accept the minutes as amended (6-0)

Minutes approved

Treasurer's Report:

Council Member Bunting advised that the new budget is in committee (will meet next week). The Town should finish the year under budget. The solar panel output in April exceeded any other month so far.

DISCUSSION

In response to a question from Council Member Carmean, Mr. Bunting advised that the Budget Committee meetings are open to the public.

Motion to accept the Treasurer's Report – Council Member Tingle

Second – Council Member Langan

Vote: All in favor to accept the Treasurer's report (6-0)

Treasurer's Report accepted.

Town Manager Report:

Town Manager Burke reported that:

- Mr. Burke thanked the staff and Council for their support with the Budget preparation. The committee will meet on 5/22/12 at 10 AM.
- The Parks and Recreation Grant for installation of beach mats has been received. Total grant \$50,000/Town Match \$25,000. Mats will be installed before Memorial Day on all streets except James, Farmington and Essex.
- Damaged trees have been removed from the Cannon Street Park lot.
- The grant meeting for funding the Kayak Launch has been rescheduled for mid- to late-June.
- Mr. Burke has attended Sussex County Association of Towns (SCAT) meetings where infrastructure and Municipal Street Aid (MSA) funding and advocacy were discussed.
- Sposato Landscaping and the Fenwick Island Public Works Department have repaired the irrigation and installed new landscaping around the Public Safety Building.
- Memorial Day Service and Public Safety Building Dedication are scheduled for Saturday, May 26, 2012 at 10AM.
- Town Administrative Assistant is handling all payroll functions in-house.
- Town Clerk has prepared a data base that will allow The Town to generate all Property Tax Bills in-house.
- The Town website and Facebook will be reviewed for user-friendliness and updating.
- Mr. Burke has received a letter from Delmarva Power advising that some lights in town are mercury vapor type and will be replaced in the future most likely with LEDs. They are in use in Georgetown as a pilot project. Council Member Weistling thanked Mr. Burke for arranging the meeting with Delmarva Power. They appeared receptive to The Town's requests.

DISCUSSION

Council Members Langan and Carmean noted that the snow fencing on the dunes is nearly complete and thanked Mr. Burke for his efforts in getting the work done before the summer.

Minutes of the May 18, 2012 Regular Council Meeting

Topics for Discussion and Possible Action

- **Bethany-Fenwick Chamber of Commerce Movie Night– Council Member Smallwood**

Carrie Subity, Bethany-Fenwick Chamber of Commerce addressed the Council. Ms. Subity and the Chamber are proposing a family-friendly movie night to be held on a Fenwick beach. The Chamber has the support of community businesses who hope that the event will generate traffic in their establishments in mid-week. Ms. Subity has proposed events for June, July and August and possibly September. They estimate approximately 200 in attendance and ask the Town's indulgence to relax parking regulations as well as to provide support by allowing the event on a beach in town that has handicap access and by providing publicity as well as off-duty police, trash collection and a waiver of the Special Event Permit fee(s). Cost to attend is free; the Chamber bears all costs to produce the event. Those costs will include portable toilets, posters/ads/web, a banner on their building and printed tickets to be handed out although they will not be required.

Motion to approve the proposal with Town Manager Burke working out the locations and times – Council Member Langan

Second – Council Member Bunting

DISCUSSION

Chief Boyden advised that, while he believes the event to be a good idea, he cannot guarantee that he will have an off-duty officer available for each event. The Chief suggested that the Chamber contact the Fire Police for coverage. Council Member Carmean suggested that it might be better to have the event closer to Lewes Street so that people can use the Chamber's parking lot until they work out all the "kinks." Council Member Carmean suggested that using a beach outside Town limits might attract an extra crowd. Ms. Subity explained that the Chamber has picked the beaches that are centrally located so that all businesses might share in the benefit of the increased crowd. Businesses that are not open have agreed to allow parking in their lots for this event. FIBS Captain Tim Ferry added that the Beach Patrol might be able to help out with the event. Council Member Tingle advised that King Street is handicapped accessible as well as Bayard Street; Captain Ferry noted that the guards could use the ATV to assist with crossing the dune. Council Member Smallwood suggested starting with one event to see how it works out. More can be added later. Ms. Subity explained that the suggested dates are based on the approximate high-tides for those dates. She will work with Town Manager Burke on the details but would like a multi-date commitment in order to schedule the advertising campaign. Both Council Member Smallwood and Weistling expressed concern that bonfires may be scheduled for Bayard Street on the dates selected; Ms. Subity advised that the Chamber can make accommodations if there is a bonfire. Council Member Smallwood suggested blocking out the dates and prohibiting bonfires on those days. Council Member Bunting asked if the Chamber would consider early September for the 4th event; Ms. Subity advised that the September event will take place on a Saturday. Council Member Weistling suggested approving 3 nights with the caveat that, if there are problems, the Town could rescind the approval.

VOTE - All in favor of approving the proposal with Town Manager Burke working out the locations and times (6-0)

PRESENTATION

Town Manager Burke introduced Mr. Rich Collins, Executive Director of Positive Growth Alliance. County Council Member Vance Phillips suggested that Mr. Collins address the Town regarding recent DNREC requirement regarding Floodplains and Drainage issues. Mr. Collins presented a brief history of legislative efforts and his organization's understanding of the impacts. Council Members asked questions regarding the Town's control over building standards and possible financial incentives that might result from drafting its own flood plain type ordinance. Mr. Collins suggested that the Town speak with FEMA or Mike Powell (DNREC).

Department Reports:

- Building Official – Patricia Schuchman advised that her report is included in the meeting packet.
 - Regarding the presentation by Mr. Collins, Mrs. Schuchman added that building above flood plain would help toward maintaining/bettering the Town's CRS rating. She advised that Mr. Powell (DNREC) encourages it.

Minutes of the May 18, 2012 Regular Council Meeting

- Mrs. Schuchman reported that she is 50% above budget for Building Permit Fees for the year.
- Grass cutting notices have been sent out to those concerned.
- Public Works – Bryan Reed advised that his report is included in meeting packet.
 - The Lifeguard shed has been moved to the end of Bayard Street.
 - Public Works has completed herbicide spraying on the bay side.
 - The ATV has been serviced and is ready for the summer.
 - Public Works has assisted the Chief of Police with the department move to the new building.
- Beach Patrol – Captain Time Ferry reported that his report is included in the Council packet.
 - Captain Ferry thanked the Public Works Department for its help in getting the lifeguards ready for the season.
 - There are 28 lifeguards signed on for this year (2 more may join later in the season). In response to a question from Council Member Weistling, Captain Ferry advised that 3 of the guards are “graduates” of the Junior Lifeguard Program. He estimates that it takes 4-6 years for the program to benefit The Town.
 - Junior Lifeguard registration is going well.
 - The volleyball net has been moved to Bayard Street. Council Member Smallwood noted that it was a safety risk at its normal location near Town Hall due to the new propane tank located there.
- Fenwick Island Police Department – Chief Boyden reported that in addition to his report (included in Council booklet) that the Department has a new vehicle. It is currently being lettered by AdArt in Georgetown. The new vehicle will save money by getting 35% better fuel mileage. Total cost to The Town is \$3,000; remainder of cost has been paid by a grant.
 - The Department move to the new building is in progress and they are waiting for phones and IT services.

Committee Reports:

- Beach Committee – Council Member Gene Langan reported that the committee is ready for the Annual Bonfire and will approach Council in June for approval for the event and the budget.
- Environmental Committee – Chair Mary Ellen Langan reported that the committee is happy to see such quick action on the part of Town Manager Burke and the Public Works Department in setting up the doggy-do stations along Bunting Avenue. They are located at Atlantic Avenue, between Essex and Dagsboro, between Indian and Houston and between King and Lewes.
- Public Safety Building – Council Member Langan reported that the building is complete and that there will be no more reports.

Planning Commission: No report

Charter & Ordinance

● Proposed First Reading Chapter 142 Subdivision of Land – Council Member Weistling

Council Member Weistling motioned that Council accept the proposed First Reading (copy attached to these minutes)
Second – Council Member Langan

DISCUSSION

Council Member Weistling advised that this change eliminates the requirement to send out notices by certified/registered mail. It also removes the requirement to advise the 20 closest lots and replaces that with notification of those lots within 200' of the proposed subdivision. Council Member Smallwood believes that the change will eliminate some properties that might be affected. Council Member Carmean questioned the distance especially when lots that are divided by water are concerned. Council Member Weistling advised that Town Attorney Schrider-Fox has advised that most municipalities use distance test. Council Member Carmean suggested that 200' is OK if The Town considers that there may be a body of water that will need to be taken into consideration. Council Member Weistling added that the “20 closest lots” leads to interpretation as to who really is the closest whereas the 200' does not. Council Members Carmean and Smallwood noted that in most cases that would be fine but there should be some way to make an exception if a body of water is involved. Building Official Schuchman advised that at 200' is a minimum and

Minutes of the May 18, 2012 Regular Council Meeting

that she has the option of sending to others depending on the property in question. Council Member Weistling added that the change is intended to save money for the Town by eliminating the mail requirement but also that the designation of 20 closest lots is arbitrary; Mrs. Schuchman noted that the last subdivision hearing cost more money than the hearing fee.

Vote to accept the First Reading of Chapter 142 Subdivision of Land (6-0). First Reading passed.

- **Proposed Second Reading Chapter 160-3 District Boundaries – Council Member Weistling**

Council Member Weistling motioned that Council accept the proposed second reading (copy attached to these minutes).

Second – Council Member Carmean

DISCUSSION:

Council Member Weistling advised that this change is recommended by the Town Solicitor. A Public Hearing was held prior to this meeting.

Vote - (6-0) to accept the Second Reading of Chapter 160-3 District Boundaries: Carmean – yes; Bunting – yes; Smallwood – yes; Weistling – yes; Tingle – yes; Langan – yes.

Council Member Weistling asked Building Official Schuchman to obtain a completed Special Events Application from the Chamber of Commerce for the movie nights.

Old Business

Council Member Carmean noted a recent break-in on Essex Street but that she never received a Nixle notice on it. Chief Boyden advised that it was a burglary and that the door had been left open. Nixle is under new ownership and is now charging for different levels of service. The Chief can make a monthly report to members of Council if they wish. Council Member Carmean asked that she be notified when it happens. Chief has asked that people in town report suspicious activity when they see it.

New Business – No Action to be Taken - None

Public Participation:

- Lynn Andrews (1205 Schulz Rd) – advised that more people have signed a petition to Council to name the Cannon Street Park after Mary Pat Kyle. She also asked about the bulk trash pick up. It is scheduled for June 6, 7, 8 and the town will take all items except concrete, car batteries and household waste. Latex paint is OK to put into the collection.
- Ben Waide (2 W Dagsboro St) – noted that the end of the canal is silting in and wondered if Council could take corrective action. Council Member Smallwood advised that there are similar situations in other locations in town and that he would like to meet with Representative Hocker to visit/discuss the issue. In response to a suggestion made by Council Member Carmean, Mr. Waide will take measurements to try to determine what is happening and how much is draining from Town streets.

Upcoming Events and Meetings:

Vice-Mayor Smallwood announced all upcoming meetings and events.

Motion to adjourn – Council Member Carmean

Second – Council Member Bunting

Meeting adjourned at 4:55 PM.

Agnes DiPietrantonio, Town Clerk
for Diane Tingle, Secretary

Minutes of the May 18, 2012 Regular Council Meeting

PROPOSED FIRST READING – MAY 18, 2012

CHAPTER 142 – SUBDIVISION OF LAND

EXISTING:

§ 142-2.C. A public hearing by the Town Council shall be held at the call of the President of the Council not less than 30 days after notification by registered or certified mail of all affected property owners in the area surrounding the proposed site of the subdivision, development or rearrangement. For the purposes of this chapter, affected property owners shall be considered, as a minimum, the owners of the 20 closest lots surrounding the proposed site, including lots across streets, avenues, highways and canals or lagoons. At least 15 days' notice of the time and place for the hearing shall be published in an official local newspaper.

PROPOSED:

§ 142-2.C. A public hearing by the Town Council shall be held at the call of the President of the Council not less than 30 days after notification by U.S. First Class Mail of all affected property owners in the area surrounding the proposed site of the subdivision, development or rearrangement. For the purposes of this chapter, affected property owners shall be considered, at a minimum, to be the owners of real property located within 200 feet of the boundaries of the proposed site of the subdivision surrounding the proposed site, including lots across streets, avenues, highways and canals or lagoons. At least 15 days' notice of the time and place for the hearing shall be published in an official local newspaper.

Approved FIRST READING: APRIL 27, 2012

Proposed Second Reading May 18, 2012

APPROVED May 18, 2012

EXISTING:

§ 160-3. District boundaries.

- A. For the purposes of this chapter, the Town is hereby divided into Residential and Commercial Zones.
- B. The boundaries of the zones are set forth on a map posted in the Town Hall. *Editor's Note: The Zoning Map is included in a pocket at the end of this volume.* The Commercial Zone is designated in yellow. All remaining land is zoned residential. More specifically, the Commercial Zone extends to a depth of 150 feet on the west side of Route No. 1 between Delaware Avenue and James Street, and to a depth of 130 feet on the east side of Route No. 1 between Atlantic Street and James Street. All remaining land in the Town of Fenwick Island, Delaware, is zoned residential.

PROPOSED:

§ 160-3. District boundaries.

- A. For the purposes of this chapter, the Town is hereby divided into three zones: Commercial, Parks and Residential. The boundaries of the zones are set forth on a map posted in the Town Hall. *Editor's Note: The Zoning Map is included in a pocket at the end of this volume.*
- B. The Commercial Zone is designated in yellow. More specifically, the Commercial Zone extends to a depth of 150 feet on the west side of Route No. 1 between Delaware Avenue and James Street, and to a depth of 130 feet on the east side of Route No. 1 between Atlantic Street and James Street.
- C. The Parks Zone is designated in green. More specifically, the Parks Zone shall include public or private sites designated for use as a park and used for recreational activities common to a park such as, but not limited to, playgrounds, sports, kayaking and other recreational uses.

Minutes of the May 18, 2012 Regular Council Meeting

- D. All remaining land in the Town of Fenwick Island, Delaware, is zoned Residential.

INSERT NEW:

§ 160-6. Parks Zone.

- A. Use regulations. Unless herein provided, no building or premises or site shall be used or any building or structure be hereafter erected, altered or repaired in the Parks Zone except for one or more of the following principal permitted uses:

1. Public athletics facilities.
2. Playgrounds.
3. Outdoor educational facilities.
4. Public outdoor meetings.
5. Public recreation.
6. Public piers and docks.

- B. Accessory uses and accessory structures permitted:

1. Off-street parking and loading facilities.
2. Other accessory uses which are incidental to recreational uses.
3. Small utility buildings or other small storage structures used for storage of equipment and supplies used in connection with park related activities.
4. The height of an accessory structure shall not exceed 15 feet above existing ground contour level at the accessory structure site location.

- C. Area and yard requirements:

1. Building structures, such as but not limited to, utility buildings, playground equipment, picnic tables, and gazebos shall meet the following minimum setbacks requirements:
 - a) Front yard setback – 20 feet from the front lot line.
 - b) Rear yard setback – 10 feet from the rear lot line.
 - c) Side yard setback - 5 feet from each side lot line.

2. A fence not to exceed six feet in height shall be permitted to screen the park from adjacent residential properties. Such a fence shall not be completely solid, but shall have openings comprising approximately 20% to 30% of the total surface area of the fence in order to provide for the flow-through of air.

- D. Town Council may adopt by Resolution additional rules and regulations applicable to any park owned and/or operated by the Town. Additional rules and regulations applicable to any park that is privately owned may be imposed by the Town Council from time to time, but shall require an amendment to the zoning ordinances of the Town.

Re-number remaining chapters.

Posted: May 21, 2012